

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOHN MICHAEL DUNN,

Case No. 2:15-CV-1812 JCM (PAL)

Plaintiff(s),

ORDER

V.

DREW M. CHRISTENSEN, et al.,

Defendant(s).

Presently before the court is Magistrate Judge Leen's report and recommendation (R&R) to dismiss plaintiff John Dunn's second amended complaint without prejudice. (ECF No. 29). Plaintiff filed a timely objection. (ECF No. 30). Defendants have not filed a response, and the time for doing so has since passed.

This court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party fails to object to a magistrate judge’s report and recommendation, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s decision in *Reyna-Tapia* as adopting the view that district courts are not required to review “any issue that is not the subject of an objection.”)).

1 Plaintiff filed a timely objection to the report and recommendation. Therefore, this court
2 finds it appropriate to engage in a *de novo* review to determine whether to adopt the
3 recommendation of the magistrate judge. *See* 28 U.S.C. § 636(b)(1). Plaintiff's objections do not
4 address—and thus cannot overcome—the multiple pleading deficiencies outlined in Magistrate
5 Judge Leen's screening order and report and recommendation. *See* (ECF Nos. 14, 29).

6 Plaintiff's 44-page second amended complaint violates LSR 2-1 and Federal Rule of Civil
7 Procedure 8(a), as the pleading was not filed on the appropriate form and is “needlessly long and
8 repetitive.” (ECF No. 29). Further, plaintiff's pleading does not allege that he has successfully
9 challenged or obtained favorable relief on his state court conviction, which is an essential element
10 of plaintiff's Fourth and Sixth Amendment claims. Plaintiff's objection does not address these
11 pleading deficiencies, and instead engages in a tangential discussion of when a Fourth Amendment
12 claim accrues. Therefore, this court agrees with the magistrate judge's analysis and conclusion,
13 and will dismiss plaintiff's second amended complaint without prejudice.

14 Accordingly,

15 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge Leen's
16 R&R (ECF No. 29) be, and the same hereby is, ADOPTED in its entirety.

17 IT IS FURTHER ORDERED that plaintiff's second amended complaint be, and the same
18 hereby is, DISMISSED WITHOUT PREJUDICE.

19 The clerk shall enter judgment accordingly and close the case.

20 DATED May 24, 2018.

21 
22 UNITED STATES DISTRICT JUDGE